

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUMMONS FOR JUDGMENT NO.335 OF 2004
IN
SUMMARY SUIT NO.749 OF 2004

Bobcards Limited .. Plaintiff

versus

Rakesh P.Mehta .. Defendant

...

Mr. Iqbal Punjwani for Plaintiff.

Mr.S.Kukreja i/b Ms S.V.Lakdawala for Defendant.

CORAM : D.G. KARNIK, J

DATED : 15th March 2005.

P.C:-

1. Heard learned counsel for the parties. This suit is filed by the plaintiff for recovery of the credit card dues. Learned counsel for the defendant submits that by a registered letter dated 18th March, 2002 the defendant had informed to the plaintiff for cancellation of the credit card and therefore he is not liable for the charges claimed after 12th March,

2002. In any event he is not liable to pay the service charge after March 2002 as he had informed the plaintiff to cancell the credit card and had not availed of any service thereafter. I have perused the extracts of the transactions made by the defendant by using of the credit card. On 18th March, 2002 when the defendant wrote to the plaintiff for cancellation of the credit card, the defendant owed to the plaintiff a sum of Rs.35,597.59. Certainly the defendant was liable to pay this amount for which liability was incurred by him by using of the credit card prior to his intimation to cancel it.

2. There is no dispute between the parties that the defendant had taken the card from the plaintiff and had used the credit card till 18th March, 2002. There is also no dispute as to the transactions made by the defendant by using of the said credit card are reflected in the statement of transactions produced by the plaintiff. In the circumstances, the defendant cannot be said to have any defence of substance in respect of the amount of Rs.35,597.59 which was due.

3. The defendant is granted conditional leave to defend the suit claim of Rs.35,597.59 subject to his

depositing in the Court Rs.30,000/- within six weeks. The defendant is granted unconditional leave to defend the suit in respect of the suit claim in excess of Rs.35,597.59. The suit shall stand transferred to the list of commercial causes. The defendant to file the written statement within a period of one month.

D.G.KARNIK, J